

APPEAL NO. 032281  
FILED OCTOBER 22, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 24, 2003. The hearing officer decided that the respondent (claimant) had disability resulting from a compensable injury on \_\_\_\_\_, beginning on November 20, 2001, and continuing through July 17, 2002. The appellant (carrier) appeals, contesting the disability determination. The claimant responds, urging affirmance.

DECISION

A timely appeal not having been filed, the decision and order of the hearing officer have become final pursuant to Section 410.169.

Section 410.202(a) provides that "[t]o appeal the decision of a hearing officer, a party shall file a written request for appeal with the appeals panel not later than the 15th day after the date on which the decision of the hearing officer is received from the division and shall on the same date serve a copy of the request for appeal on the other party." Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)) provides that a request for appeal shall be presumed to be timely filed if it is: (1) mailed on or before the 15th day after the date of receipt of the hearing officer's decision; and (2) received by the Texas Workers' Compensation Commission (Commission) or other party not later than the 20th day after the date of receipt of the hearing officer's decision. Both portions of Rule 143.3(c) must be complied with in order for an appeal to be timely. Texas Workers' Compensation Commission Appeal No. 002659, decided December 12, 2000. Pursuant to Rule 156.1(a), each carrier shall designate an Austin representative to act as its agent for receiving notice from the Commission, and pursuant to Rule 156.1(c), notice to the carrier's Austin representative is notice from the Commission to the carrier.

Records of the Commission show that the carrier's representative received a copy of the hearing officer's decision on July 31, 2003. The 15th day after July 31, 2003, excluding Saturdays and Sundays and holidays listed in Section 662.003 of the Texas Government Code (Section 410.202(d)), was Thursday, August 21, 2003. The carrier's appeal was sent by facsimile transmission on Friday, August 29, 2003, and received by the Commission that same day. A copy of the appeal that was mailed also was untimely, in that it was not received until September 3, 2003. There is no postmark to show the day it was actually mailed, though a postage meter stamp shows the date August 18, 2003. The appeal is untimely.

The hearing officer's decision and order have become final under Section 410.169.

The true corporate name of the insurance carrier is **TIG INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**FRANK A. MONTEMARANO  
5205 NORTH O'CONNOR BOULEVARD  
IRVING, TEXAS 75309.**

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Judy L. S. Barnes  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Edward Vilano  
Appeals Judge